



US Army Corps  
of Engineers

Sacramento District  
1325 J Street  
Sacramento, CA 95814-2922

# Public Notice

Number: 200475186

Date: May 7, 2004

Comments Due: June 7, 2004

**SUBJECT:** The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct an infiltration gallery in a spring, which would result in impacts to approximately 0.007 acre of waters of the United States, including wetlands, in or adjacent to the Sunshine Spring #2. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/cespk-co/regulatory/PNs/index.html>.

**AUTHORITY:** This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

**APPLICANT:** Schwartz & Egger Family LP (Andre Schwartz)  
P.O. Box 6635  
Ketchum, Idaho 83340  
(208) 622-3424

**APPLICANT'S AGENT:** Claffey Ecological Consulting, Inc. (Michael Claffey)  
1371 17 Road  
Fruita, Colorado 81521  
(970) 858-1670

**LOCATION:** The project site is located in Lot 5 of the Preserve Subdivision approximately four miles southwest of the Town of Telluride, San Miguel County, Colorado, and can be seen on the Grayhead USGS Topographic Quadrangle.

**PROJECT DESCRIPTION:** The applicant is proposing to construct an infiltration gallery in a spring to provide domestic water to his property (located on Lot 8 opposite and adjacent to subject Lot 5). The Sunshine Spring #2 is located on adjacent Lot 5 and the applicant holds the appropriate water rights to utilize the spring as a water source under Colorado Water Law (both as a domestic water supply and for irrigation). The applicant (and the owner of Lot 9) currently divert water from this spring during the irrigation season under a separate buried pipe system.

The proposed project involves installation of an underground 8' x 8' collection tank, an intake pipe, and water supply pipe. Up to 110 ft<sup>2</sup> will be temporarily impacted in the spring location and up to 180 ft<sup>2</sup> will be temporarily impacted on adjacent wetlands, for a total temporary wetland impact of up to 300 ft<sup>2</sup> (0.007 acre). The work will take place below the actual spring origination point which is approximately 60 feet up slope. The attached drawings provide additional project details.

As shown in Figure 1, the work includes a buried pipeline to carry water from the spring on Lot 5 to Lot 8. The line will be installed in an existing cleared easement on Lot 5 where the existing irrigation line is buried, under Preserve Drive, and into Lot 8. No aquatic impacts will occur on Lot 8 and only a minor amount of upland tree removal and brush clearing are proposed to install the buried line. An overflow pipe from the tank will carry any excess water back into the spring channel. The project has been designed by a hydrologist and is expected to take a few hours to complete.

The impacts to waters of the United States under this proposal are minimal; however, a nationwide general or regional permit is unavailable because the regional conditions of these permit preclude their use to authorize discharge of dredged or fill material in springs.

#### **ADDITIONAL INFORMATION:**

**Environmental Setting.** There are approximately 0.14 acre of wetlands within the project area. The site is characterized as a slope wetland under the Hydrogeomorphic classification system. This spring, dominated by heart-leaf bittercress (*Cardamine cordifolia*), emanates from an aspen hillside with a western aspect on Lot 5. There are no true soils in the actual spring channel; the upper surface is entirely small gravels. Surrounding wetland vegetation includes aspen, tall mannagrass, monkshood, beaked sedge, arrow-leaf groundsel, nettle, horsetail, Canadian reedgrass, and large-leaf avens. Soils are silty loams with low chromas and redoximorphic features. No histosols or histic epipedons were found in this wetland complex. Surrounding uplands are mature aspen forest with an understory of snowberry, Fendler's meadowrue, and heart-leafed arnica. The spring discharges to a channel which flows down gradient several hundred feet to an augmentation pond and outlets to continue on to the South Fork of the San Miguel River. The Preserve Subdivision includes several high-end large home developments.

**Alternatives.** The applicant has provided information concerning project alternatives. While the project is water dependent, the applicant has drilled two wells on his adjacent Lot 8 and neither has provided a water yield sufficient for domestic use. There are not any other alternative sources available as the Preserve Subdivision is not supplied by a municipal source. Additionally, there are not any available storage in water tanks as each lot was designed to provide its own source of water through wells.

**Mitigation.** The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. Impacts to wetlands at this spring and adjacent wetlands will be temporary; and, all work will be done in a manner to ensure that the pre-existing ground water and surface water hydrology is maintained. All excavation will be kept to the minimum need to accomplish the work and excavated material will be carefully removed and placed on construction fabric and sorted by topsoil and subsoils. Upon completion of installation, the sub-soils will be returned and covered with topsoil. Where possible the topsoil and plant material will be excavated as a sod mat, set aside and returned as a sod mat so that the wetland can re-establish over the buried tank and pipe. Disturbed areas will be planted with 10 cm plugs of heart-leafed Bittercress on 6-inch centers. If sod mat excavation in the remaining areas of the wetland is not successful, the entire area will be seeded with tall mannagrass and planted with sedge plugs.

It may be possible to further reduce impacts at the spring once construction is initiated. According to the project hydrologist, if they encounter significant shallow groundwater at the tank excavation (see Figure 2) they may be able to install a perforated pipe collection system in the trench and connect that system directly to the pipeline. If this is possible the tank would not be installed and the excavation needed for the tank would not be required. The intake pipeline in the spring channel would not be necessary.

**OTHER GOVERNMENTAL AUTHORIZATIONS:** Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Colorado Department of Public Health and Environment, is required for this project. The applicant has indicated they have applied for certification. Additionally, the applicant has applied for a wetland special use permit from San Miguel County.

**HISTORIC PROPERTIES:** Based on the available information no known cultural resources are within the project's area of potential affect.

**ENDANGERED SPECIES:** The proposed activity may affect federally-listed endangered or threatened species or their critical habitat. The Corps will initiate consultation with the U.S. Fish and Wildlife Service, pursuant to Section 7 of the Endangered Species Act, on the small consumptive water depletion resulting from this project.

The above determinations are based on information provided by the applicant and our preliminary review.

**EVALUATION FACTORS:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230), or of their criteria.

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement

pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**SUBMITTING COMMENTS:** Written comments, referencing Public Notice 200475186, must be submitted to the office listed below on or before June 7, 2004:

Susan Bachini Nall, Environmental Engineer  
US Army Corps of Engineers, Sacramento District  
Colorado/Gunnison Basin Regulatory Office  
400 Rood Avenue, Room 142  
Grand Junction, Colorado 81501-2563  
Email: [Susan.Nall@usace.army.mil](mailto:Susan.Nall@usace.army.mil)

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant's agent or the Corps' project manager Susan Bachini Nall, 970-243-1199, extension 16, or email [Susan.Nall@usace.army.mil](mailto:Susan.Nall@usace.army.mil).

Attachments: 4 drawings